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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 LAPIR MOSES,

10 Petitioner,

11 v.

12 A. NEIL CLARK,

13 Respondent.

CASE NO. C08-1344-JLR-JPD

REPORT AND RECOMMENDATION

14 Petitioner Lapir Moses is a native of Uganda who was admitted to the United States as a  
15 refugee on March 11, 1991. (Dkt. 17, Ex. A). On May 6, 2008, the U.S. Immigration and  
16 Customs Enforcement (“ICE”) initiated removal proceedings against him, alleging that he was  
17 removable under Section 237(a)(A)(ii) of the Immigration and Nationality Act (“INA”), for  
18 having been convicted of an aggravated felony, under INA § 237(a)(B)(i), for having been  
19 convicted of a violation relating to a controlled substance, and under INA § 237(a)(C), for  
20 having been convicted of a firearm offense. *Id.*

21 On September 8, 2008, petitioner filed a “Motion for verification of eligibility of  
22 derivative citizenship,” challenging the Department of Homeland Security’s (“DSH”) statutory  
23 and constitutional authority to remove him from the United States because he had obtained  
24 derivative citizenship from his adopted mother upon her naturalization on October 31, 1996,

1 when he was fourteen years old. (Dkt. 5). Petitioner requested that this Court issue an order,  
2 directing ICE to terminate his removal proceedings and consider him a citizen of the United  
3 States. *Id.* On November 7, 2008, respondent filed a Motion to Dismiss for Lack of  
4 Jurisdiction, arguing that this Court lacks jurisdiction to consider petitioner's derivative  
5 citizenship claim. (Dkt. 12). On November 19, 2008, however, respondent filed a Status  
6 Update, Dkt. 17, indicating that on November 14, 2008, the Immigration Court issued an order  
7 terminating petitioner's removal proceedings. (Dkt. 17, Ex. A). Respondent asserts that  
8 because petitioner has been accorded the relief sought in his habeas petition, his petition is now  
9 moot and should be dismissed. (Dkt. 17). Petitioner did not file a response.

10 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of  
11 the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9<sup>th</sup> Cir. 2002).  
12 "When a controversy no longer exists, the case is moot." *Id.* Because petitioner's removal  
13 proceedings have been terminated, the Court finds that petitioner's habeas petition should be  
14 dismissed as moot. *See, e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9<sup>th</sup> Cir. 1992) (holding  
15 that the District Court properly dismissed plaintiff's claims that had become either moot or  
16 unripe). Accordingly, I recommend that this action be dismissed as moot.<sup>1</sup> A proposed Order  
17 accompanies this Report and Recommendation.

18  
19 DATED this 8th day of December, 2008.

20   
21 JAMES P. DONOHUE  
22 United States Magistrate Judge

23  
24 <sup>1</sup>Because the Court finds that this action should be dismissed as moot, it does not reach  
25 the merits of respondent's motion to dismiss, Dkt. 12.